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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 08/655,853	Applicant(s) McMaster et al.
Examiner Steven P. Griffin	Group Art Unit 1303



Responsive to communication(s) filed on May 30, 1996

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-16 and 27 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-16 and 27 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Response to Amendment → and page 4, line 18

1. The amendments to claim 7, filed 11-24-95, have not been entered because they do not comply with the requirements of 37 C.F.R. § 1.121(e), which sets forth the manner for amending in a reissue application. See MPEP § 1453 for examples on the correct way for making amendments to the specification and claims of a reissue. ✓

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p) (5) because they do not include the following reference sign(s) mentioned in the description: "43" .(see col. 5, line 63). Correction is required. ✓✓✓

3. Applicant is required to submit a proposed drawing correction in response to this Office action. However, formal correction of the noted defect(s) can be deferred until the application is allowed by the examiner.

maybe
new
2nd
reqd

Specification

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4. The disclosure is objected to because of the following informalities: Column 5, line 26, it is believed that "14" should be --22-- and "22" should be --14--. Appropriate correction is required.

*Col 4, line 18
"3" should be 3 5*

Claim Rejections - 35 USC § 112

5. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 27 has no support for moving or changing the position of surface of the quench tubes so as to conform to the glass sheet which is intended to be tempered. The glass sheet is either tempered in the flat condition as received, and thus there are no means as specified in claim 27, or the flat sheet is bent using the disclosed apparatus prior to tempering. The sheet must be received by the apparatus in a flat, heated condition for bending prior to tempering of the bent glass sheet in place, i.e. bending is essential for enabling tempering with the apparatus when the platens are in a deformed state.

*as claimed
no indication that
bending is between
the upper and lower tubes*

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6. Claims 1-16 and 27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2, line 2, it is suggested that --actuator-- be inserted before "devices", this suggestion is made so as to provide terminology consistency as claims 3 and 5 provides "actuator devices".

Claims 3 and 5, "actuator devices" is not clear if it is referring to the same devices as were referred to adjust "devices" in claim 2, see the preceding paragraph for a suggested correction.

*in the
same*

Claim 6, line 5, "the lower bending platen" lacks antecedent basis.

Claim 6, line 4, claim 9, lines 2-3, 4 and 7, claim 15, line 26, and claim 16, lines 20-21 and 35, "said upper platen" lacks antecedent basis.

Claim 6, lines 6-7, 9, and 10, claim 7, lines 1-2 and 6, claim 15, line 23, and claim 16, line 31, "the lower platen" lacks antecedent basis.

Claim 6, lines 7-8, claim 8, lines 1-2 and 5, claim 9, lines 1-2, claim 15, lines 29-30, and claim 16, lines 38-39, "the upper platen" lacks antecedent basis.

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Claim 6, line 12, claim 15, line 19, and claim 16, line 27, "said lower platen" lacks antecedent basis.

Claim 7, lines 8-9 [Note: if the amendment of claim 7, filed 11-24-95, is submitted in correct format this rejection would be overcome], claim 11, line 3, claim 15, line 25, and claim 16, lines 33-34, "the bending and quenching" lacks antecedent basis as the there is no basis for quenching.

Claim 12, line 2, "the drive wheel" is not clear what it is referring to as claim 11 refers to plural drive wheels thus it is not clear if this is referring to the same drive wheels or a different drive wheel. ✓

Claim 15, line 21, "platen" is unclear what platen it is referring to. ✓

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Bocelli et al 4,540,425 (Bocelli '425).

Bocelli '425 discloses an apparatus for bending glass sheets comprising a first platen (see the lower portion of the apparatus in Figs. 1-3) which receives glass sheets, includes actuator means which moves portions of the first platen a specific distance to deform the platen, and has openings in nozzles (17) which form a part of the first platen and are movable with the deformation of the first platen, Bocelli '425 also discloses the apparatus as having a second platen (see the upper portion of the apparatus in Figs. 1-6) with nozzles (18) and a means (23, 24) for supplying quench gas to the first and second quench openings.

9. Claim 27 is rejected under 35 U.S.C. § 102(b) as being anticipated by Cheron '752.

Cheron '752 discloses an apparatus for tempering glass comprising upper and lower quench tubes (13, 21), an actuator means (see col. 5, line 30 - col. 6, line 39, and Fig. 11) for moving the quench tubes to conform to the glass sheet, means (2, 3) for engaging the glass sheets and means (20, 11) for supplying quench gas to temper the glass sheets.

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Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Bocelli '425.

Bocelli '425 discloses a template (8 or 9) which is mounted so when the platens deform they contact the template which

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controls the curvature of the platens and thus the curvature of the glass. It is noted that the template in Bocelli '425 is located below the first platen (see the lower portion of the apparatus in Figs. 1-3) whereas claim 6 claims the template above the upper platen but it is considered that it would have been obvious to one of ordinary skill in the art that locating the template of Bocelli '425 above the platens and thus deforming the platens of Bocelli '425 to contact this template would have been an obvious modification in the location of a known part in order to provide for a way of controlling the shape of the curvature of the glass sheet.

Reissue Oath/Declaration

12. The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors relied upon, as required under 37 C.F.R. 91.175(a)(5).

The reissue declaration fails to particularly specify every error relied upon, every departure from the original patent represents an "error" in the original patent under 35 U.S.C. 251 and must be particularly and distinctly specified and supported in either the original or a supplemental oath or declaration under 37 CFR 1.175. The declaration should refer to every

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departure from the original patent, for example the changes to the specification on col. 4, lines 18 and 51 and the changes to the drawings filed 11-24-95, and specify the error relied upon.

13. The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors and/or how the errors relied upon arose or occurred as required under 37 CFR 1.175(a)(5). Included are inadvertent errors in conduct, i.e., actions taken by the applicant, the attorney or others, before the original patent issued, which are alleged to be the cause of the actual errors in the patent. This includes how and when the errors in conduct arose or occurred, as well as how and when these errors were discovered. Applicant's attention is directed to *Hewlett-Packard v. Bausch & Lomb*, 11 USPQ2d 1750, 1758 (Fed. Cir. 1989). The declaration should specifically refer to every error in the patent and specifically explain how the errors arose or occurred, for example, the declaration should refer to each change/amendment such as the amendments to claims 1, 15 and 16 and provide a specific explanation of how this error arose, this is necessary so the Office can adequately evaluate that the errors arose without deceptive intent.

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14. The reissue oath or declaration filed 5-30-96 is defective because it is unsigned and as such is considered to lack compliance with 37 CFR 1.175(a).

15. Claims 1-16 and 27 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. § 251. See 37 C.F.R. 1.175.

Every departure from the original patent represents an "error" in the original patent under 35 U.S.C. 251 and must be particularly and distinctly specified and supported in either the original or a supplemental oath or declaration under 37 CFR 1.175. Any subsequent changes in the specification or claims require an updated supplemental oath or declaration specifically directed to and supporting these changes. As set forth in the previous office actions, the reissue oath or declaration must particularly specify (1) the excess or insufficiency in the claims and (2) how the reissue overcomes the defect in the original patent, e.g. describe how the newly presented or amended claims differ from those of the original patent. The reissue declarations of record do not address, in the above manner, all the changes from the patent. The reissue declarations of record do not point out very specifically what the defects are and how and when the errors arose, and how and when errors were discovered. Further, as set forth previously,

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failure to omit a limitation is not "error", where the claims can only be enabled with the limitation present. The disclosed apparatus is for bending the flat glass sheet followed by tempering of the bent glass sheet. The sheet must be received by the apparatus in a flat, heated condition for bending by changing the contour of the platens prior to tempering of the bent glass sheet in place, ^{as} ~~the~~ bending is essential for enabling tempering of a bent glass sheet with the platens contoured according to the bending step. Claims directed to an invention different from that of the patent are not proper for the filing of a reissue application; see MPEP 1412.01 and 1450. Claim 27 is not directed to the bending and tempering apparatus of the patent claims. Applicant is trying to now add different inventions to the patent by way of reissue which is totally inappropriate. These claims are rejected under 35 USC 251 as not being directed to error and not being for the invention in the original patent.

Response to Arguments

16. Applicant's arguments filed 5-30-96 have been fully considered but they are not deemed to be persuasive. Regarding the arguments pertaining to the 35 USC § 112, first paragraph rejection of the subject matter of claim 27, it is argued that

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adequate support is provided in the specification. It is considered that this argument is not deemed persuasive and the discussion regarding this argument in the previous office actions should be referred to. It is argued that the prior art fails to disclose the subject matter as claimed in claim 27, it is considered as stated in the above prior art rejection of claim 27 that the prior art does disclose the invention as claimed in claim 27.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P. Griffin whose telephone number is (703) 308-1164. The examiner can normally be reached on Monday-Thursday from 6:30 AM-4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Czaja, can be reached on (703) 308-3852. The fax phone numbers for this Group are (703) 305-7115, 7718, or 7719.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Donald E. Czaja
DONALD E. CZAJA
SUPERVISORY PATENT EXAMINER
GROUP 130

SPG *J. Duffie*
December 4, 1996